

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14206 of Stanton Partners, as amended, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the minimum lot area requirements (Sub-section 3301.1) to use the premises as an eleven unit condominium with accessory parking in an R-4 District at premises 600-602 Maryland Avenue, N.E., (Square 863, Lots 11, 12 and 800).

HEARING DATE: November 14, 1984
DECISION DATE: December 5, 1984

FINDINGS OF FACT:

1. The subject site is located on the northeast corner of the intersection of Maryland Avenue and 6th Street, N.E. The site is in an R-4 District and is known as premises 600-602 Maryland Avenue, N.E.

2. The subject site is formed by three adjoining lots and has the shape of a long narrow north-south rectangle with an irregular projection at its southern end. The dimensions of the site are thirty feet on the north side, 131.58 feet on the west side, 43.50 feet on the south side, 98.08 feet on the east side and 18.47 feet on the southeast projecting side. The site has an area of 3,916 square feet.

3. The site is improved with two brick row structures. The subject structures are four stories in height and are located on the two adjoining lots at the front or south of the site. The third adjoining lot at the rear or north of the site is developed as a parking lot for six cars.

4. There is access to and from the subject site through Maryland Avenue on the south, 6th Street on the west and D Street on the north.

5. The subject site is surrounded by R-4 residential properties developed with row dwellings. Adjoining the site on its east is the New Samaritan Baptist Church and directly south of the site is Greater Mount Zion Baptist Church. At the southwest corner of the subject intersection is Stanton Park which is surrounded by C-2-A strip development on its north, south and west.

6. The applicant purchased the site from the New Samaritan Baptist Church which has continued to use the rear lot as a parking lot for the church. The two row dwelling were previously used as a three-unit apartment building and an eight unit rooming house. The structures have been vacant for more than five years and have become severely deteriorated.

7. The subject row dwellings are of Victorian design and are situated on a highly visible corner fronting on Stanton Park. The site is located in the Capitol Hill Historic District.

8. The applicant originally proposed to renovate the structures and convert them into twelve condominium units with accessory parking. The proposed units would have consisted entirely of one-bedroom apartments with an average size of 650 square feet. Units of this size sell in the \$60,000 to \$80,000 range and have a long-standing history of market acceptance in the neighborhood. The buildings were designed to have three units per floor on each of the four floors, including the basement.

9. At the public hearing, the applicant amended the application to change the number of units to eleven. The revised plans reflect two one-bedroom units in the basement, two one-bedroom units on the first floor, one two-bedroom unit on the basement and first floors, and three one-bedroom units on each of the second and third floors.

10. An application for a subdivision has been submitted to the D.C. Office of the Surveyor which would combine the three lots into a single lot with approximately 3,916 square feet. Under the provision in an R-4 zone which requires 900 square feet of lot area for each dwelling unit in a conversion to apartment house use, the new single lot would support only four dwelling units on the site. Eleven units would require 9,900 square feet.

11. The units would range in size from 570 to 1,250 square feet.

12. Substantial renovation work will be required to bring the structure into habitable condition. The two buildings will be joined together by through wall-connections. This will also allow a second means of egress for some units, to meet fire safety requirements. There are fire escape balconies and ladders existing on the 6th Street facade of the building which will be removed given the utilizations of a fire code approved interior stairwell.

13. The units will vary in floor plan design but all will have conveniences including fireplaces, patios, and

porches, individually controlled heat and air conditioning. each unit will have living and dining areas, kitchen, bath and closet spaces.

14. The applicant is seeking a variance of 5,984 square feet from the minimum lot area requirements of Sub-section 3301.1.

15. The Board of Zoning Adjustment has the power to grant variances under Paragraph 8207.11 of the D.C. Zoning Regulations which provides that where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to the owner of such property, the Board may grant a variance from such strict application so as to relieve such difficulties, provides such relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the zoning regulations and map.

16. The applicant testified that based on his firm's experience with real estate development in the area, any attempt to convert the subject property to fewer than eleven units would make it extremely difficult to obtain construction financing due to the effect of fewer units on the economic feasibility of the project. Such an effort would pose an unacceptable level of risk and potential economic hardship to the owners. The applicant was of the opinion that the reason that this well-located Capitol Hill property has not been renovated to date is because of the hardship imposed by the zoning restrictions from which relief is sought in this application. The applicant further testified that the granting of this variance would result in the total restoration and return to active use of one of Capitol Hill's most prominent Victorian legacies.

17. The owner of the property, Stanton Partners, is an experienced team of condominium developers who have converted approximately 300 units to condominiums in have District.

18. The size and design of the units will allow for spacious living accommodations having adequate light and air. The lot area variance will not adversely affect the desirability of the units as living quarters.

19. The Zoning Regulations require that off-street parking be provided for an apartment house in the R-4 District at a rate of one space for each three dwelling units. The applicant is required to provide four on-site

parking spaces. The applicant's plans show the location of seven on-site parking spaces. The parking spaces are to be located in the rear yard of the property. Three spaces will front on D Street and four spaces will front on 6th Street. The spaces will be asphalt paved and striped. The location of the spaces meets all set-back requirements of the Zoning Regulations and will be buffered from the adjacent streets and neighboring property by a landscaped area.

20. The site is served by Metrobus routes which travel both 8th Street north/south and C Street east/west. The site is within walking distance of Union Station and its Metrorail Station to the west.

21. The Office of Planning, by report dated November 7, 1984, recommended that the application be approved. The Office of Planning was of the opinion that there are practical difficulties inherent in the property's unique physical condition, age, size, use history, and location across from Stanton Park that relate directly to the necessary burden of proof in an area variance case. As noted earlier, the large four story Victorian subject building has a history of multi-family usage. The proposed conversion to an apartment condominium would exceed the minimum required number of parking spaces by providing seven spaces for the eleven units proposed. The Office of Planning noted the long standing derelict condition of the prominently sited property which is visible from and helps frame the northeast corner of Stanton Park. The Office of Planning was of the opinion that the variance request will not be inconsistent with the Comprehensive Plan land use objectives for this site, which recommends the enhancement of the medium density residential area. The Office of Planning recommended approval of this application based on the opinion that the variance will not circumvent the standards set forth in Paragraph 8207.11 of the Zoning Regulations. The Board concurs with the reasoning and the recommendations of the Office of Planning.

22. Advisory Neighborhood Commission 6A, by report dated November 1, 1984, recommended that the application be approved with conditions. The ANC noted that the residences on Maryland Avenue greatly contribute to the character of Stanton Park and the Capitol Hill Historic District. The ANC was of the opinion that the two buildings would accommodate three units on each of four floors as proposed by the applicant. The applicant proposes to provide six parking spaces which would exceed the four spaces required by the Zoning Regulations. The ANC also noted that as presently configured the corner parking lot is a major intrusion on the streetscape of the Historic District. It extends across public space on both Sixth and D Streets to produce an unrelieved stretch of asphalt out of place in a residential neighborhood. The paving of the public space enables autos

to park on the sidewalk, which forces pedestrians to walk in the street. The ANC expressed concern that if the application is denied, the houses will continue to deteriorate. The ANC was of the opinion that the applicant faced practical difficulties in attempting to rehabilitate the structures economically, provide enough marketable units, and meet the area requirements of the Zoning Regulations. The ANC was further of the opinion that the offensive parking lot should be brought into compliance with the law and made to anchor the corner of Sixth and D as much as possible through landscaping. The ANC recommended that a grant of the application should provide conditions to require substantial improvement of the parking lot including:

- A. One point of entry and exit;
- B. Removing of paving and placement of landscaping in the public space;
- C. Screening of the parking lot with an iron fence along the sidewalks and rows of tall-growing evergreens such as white pines, *pinus strobus*;
- D. Protection of adjacent residences from possible glaring illumination; and
- E. Other measures deemed appropriate by the Board and the Office of Planning.

23. The Board is required to give "great weight" to the issues and concerns of the Advisory Neighborhood Commission when those issues and concerns are in a written report. The Board generally concurs with the reasoning of the ANC as to the variance. As to the conditions for the parking lot, the Board finds that requiring only one point of entry and exit would require a greater area of the site to be paved to obtain access to all parking spaces. Accordingly, the Board will require two access points to allow for more landscaping. The specific design and location of the curb cuts and landscaping shall be left to approval by the Department of Public Works, the agency with direct authority over public space. The Board finds that there are no overhead lights proposed for the parking area.

24. Two letters of support were submitted to the record by neighbors. The support was based on the opinion that the development of this long vacant property would remove an eyesore from the neighborhood. The supporters saw a need to renovate the numerous vacant properties in the area in order to upgrade the neighborhood. The supporters were of the opinion that the conversion of that building into condominiums would be an excellent addition to the character of this old and exciting neighborhood and that a newer

building at the subject location would definitely be out of place. One supporter requested that two conditions be attached to a grant of the application. First, the supporter would like a guarantee that Stanton Partners are not planning to tear down the fine but unfortunately abandoned structure on the corner of Sixth and Maryland, N.E. The second condition was that Stanton Partners should guarantee that the proposed parking lot is adequate for the new condominiums. The supporter noted that the on-street parking in the area is already tight. The addition of possibly twenty-four cars excluding guests would be unbearable.

25. The Board concurs with the reasoning of the neighbors in support. The Board finds that the existing structure are to be preserved and renovated. The Board finds that the seven parking spaces to be provided exceed the minimum number required by the Regulations and is all that reasonably could be provided.

26. The Stanton Park Neighborhood Association (SPNA), by letter dated November 13, 1984, opposed the application. The SPNA's primary objection was to the high density being proposed by the developer. The SPNA did not feel that the applicant had demonstrated any "practical difficulty" on which to base the variance. The Board does not concur with the reasoning or the recommendations of the SPNA, for reasons explained below.

27. The Capitol Hill Restoration Society, Inc. (CHRS), by letter dated November 13, 1984, opposed the application. The CHRS opposed a conversion of the subject property to eleven or twelve units but did not oppose a conversion to nine or fewer units. This position was based on a conclusion that the applicant did not meet the variance test of showing exceptional practical difficulties requiring eleven or twelve units. The CHRS noted that the three lots comprising this property total 3,916 square feet. At 900 square feet per unit, this would allow only four units. Based on prior certificates of occupancy for a three unit apartment house and an eight unit rooming house, comparability would seem to allow five units. Thus, the applicant's request is for more than double the number of units allowed by the Zoning Regulations. The CHRS recognized that the large structures currently on these lots justify a higher density than the four or five units allowed without a variance. The CHRS was of the opinion that a density of nine units would strike an appropriate balance. The Board does not concur with the reasoning or the recommendations of the CHRS, for reasons explained below.

28. Two neighbors testified in opposition to the application. The opposition was based on a concern that the density proposed for the site would be too high and would

create adverse impacts on the surrounding area. The opponents were not opposed to the applicant's restoring the structure for a smaller number of residential units. The opposition expressed a further concern that the acquisition of the subject parking lot by the applicant would cause an increased demand for on-street parking for church activities at the adjoining site. The New Samaritan Church to the east presently uses the parking lot for its members. The Church's future plans for its site are uncertain but it may sell the site and relocate to a larger church. The opponents noted that the New Samaritan Church had purchased the subject site for purposes of expansion. Subsequently, the Church discovered that it could not demolish the historic buildings on the site. The church then sold the property to the applicant.

29. The Board finds that the proposed eleven units will be appropriate to the size and historic design of the existing structure. The proposed on-site parking will alleviate the potential adverse impacts of increased density. A grant of this application will permit the rehabilitation and use of an historic structure as a residence in an R-4 District. The Board further finds that the parking demand at the adjoining site to the east is a separate matter. The Board notes that the applicant already owns the entire subject site, including the parking lot. Further, there are at present no parking requirements for a church. As to the practical difficulty, for reasons already set forth in this order, the Board finds that the applicant has met its burden of proof.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a variance from the minimum lot area requirements to use the subject premises as an eleven unit condominium with accessory parking in an R-4 District. The granting of an area variance requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographic conditions. The Board further must find that the relief requested can be granted without substantial detriment to the public good and that it will not substantially impair the intent and purpose of the zone plan.

The Board concludes that the applicant has met this burden of proof in showing a practical difficulty inherent in the property. The existing historic structure on the site is of such a size that rehabilitation of the property for less than eleven units would be impractical. Further, the R-4 District is intended to be primarily residential and

a grant of this application would provide a residential use for the site.

The Board further concludes that the granting the proposed relief will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan. The granting of this area variance will permit a reasonable use of private property that will preserve and restore an historic site.

The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled by law.


Accordingly, it is hereby ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. Construction shall be in accordance with the revised plans marked as Exhibit No. 20 of the record.
2. The applicant shall provide seven parking spaces on-site, with two curb-cuts, as shown on Sheet No. 8 of the plans marked as Exhibit No. 20 of the record.
3. Landscaping located in public space and the location of curb-curts shall be subject to review and approval by the D.C. Department of Public Works.

VOTE: 3-0 (Charles R. Norris, William F. McIntosh and Carrie L. Thornhill to grant; Douglas J. Patton not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 20 FEB 1985

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

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THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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